

JUN 10 1988

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code.

The information submitted discloses that you were incorporated on [REDACTED] to administer the collective needs of homeowners and property owners by providing services and to furnish water. You maintain and upgrade roadways, marina, lake, park area and lake dam. Your sources of income are dues and assessments of members. Your expenses are for upkeep of common areas and facilities, note payments and utilities.

In response to our letter of [REDACTED], you stated that [REDACTED] Subdivision is outside the city limits of [REDACTED]. You further stated that the lake, boat ramp and park area are not open to the public.

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

"(4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes."

Section 1.501(c)(4)-1 of the regulations provides, in part, as follows:

"(a)(1) In General. A civic league or organization may be exempt as an organization described in section 501(c)(4) if -

- (i) It is not organized or operated for profit; and
- (ii) It is operated exclusively for the promotion of social welfare."

| Code    | Initiator | Reviewer | Reviewer | Reviewer | Reviewer | Reviewer | Reviewer |
|---------|-----------|----------|----------|----------|----------|----------|----------|
| Surname |           |          |          |          |          |          |          |
| Date    |           |          |          |          |          |          |          |

Revenue Ruling 74-99, 1974-1, C.B. 131, holds that in order for a homeowners' association to qualify for exemption under section 501(c)(4) of the Code, it must have the following characteristics:

1. The organization must serve a community which bears a reasonable recognizable relationship to an area ordinarily identified as governmental.
2. It must not conduct activities directed to the exterior maintenance of private residences; and
3. The common areas or facilities must be for the use and enjoyment of the public, as distinguished from controlled use or access restricted to the members of the homeowners' association.

Revenue Ruling 80-63, 1980-1 C.B. 116, states that a homeowners' association which represents an area that is not a community and restricts the use of its recreational facilities, such as swimming pools, tennis courts, and picnic areas to members of the association does not qualify for exemption under section 501(c)(4) of the Code.

We also considered whether your organization qualified for exemption under section 501(c)(7) of the Code. This section provides for the exemption of clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholders.

Revenue Ruling 75-494, 1975-2 C.B. 214, provides that a club providing social and recreational facilities, whose membership is limited to homeowners of a housing development, will not qualify for exemption under section 501(c)(7) of the Code by owning and maintaining residential streets, enforcing restrictive covenants, or providing residential fire and police protection and trash collection services.

Based on the information presented, we have concluded that you do not meet the requirements for exemption as a social welfare organization described in section 501(c)(4) of the Internal Revenue Code. The recreational areas you maintain are not open for use by the general public, but rather are restricted to members of the subdivision which fails to meet the requirements set out in Revenue Ruling 74-99 and clarified by Revenue Ruling 80-63.

We have also concluded that you do not meet the requirements for exemption as a social and recreational club described in section 501(c)(7) of the Internal Revenue Code. You maintain streets and provide water to property owners which are similar activities to those described in Revenue Ruling 75-494.

Accordingly, it is held that you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(4) or section 501(c)(7) of the Code, and you are required to file Federal income tax returns on Form 1120.

[REDACTED]

As a homeowners association, you may qualify for treatment under section 528, a section of the Code created by the Tax Reform Act of 1976. In this letter we are not ruling on the question of whether you qualify for treatment under section 528. However, if you believe you qualify for such treatment, you should file Form 1120-H when due.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

[REDACTED]  
District Director

Enclosures:  
Form 1120-H  
Publication 892  
Publication 588  
Form 6018